

III. REMARKS

Claims 1-10, 12-28 and 30-35 are pending in this application. By this amendment, claims 1, 27 and 35 have been amended. Claims 11 and 29 have been canceled. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 27-34 are rejected under 35 U.S.C §101 as allegedly being directed to non-statutory subject matter. Claims 1-14, 24-31, 34 and 35 are rejected under 35 U.S.C. §102(b) as allegedly being unpatentable over Eder (U.S. Patent No. 5,615,109), hereafter "Eder." Claims 15-23, 32 and 33 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Eder in view of Abdou (U.S. Patent Publication No. 2002/0107773), hereafter "Abdou." These rejections are respectfully traversed for the reasons stated below.

Initially, Applicants thank the Examiner for the telephone interview of December 14, 2005 with their representative, Hunter E. Webb. A proposed amendment was submitted in advance of the interview. In the interview, the proposed amendment was discussed, particularly the amendments to specify that a group unit includes a plurality of item units, that each item unit in a group unit has the same type of volume, and that a rank is assigned to each discount threshold of each group unit. The Examiner agreed with Applicants' representative that the proposed amendment should serve to overcome the Eder reference.

A. REJECTION OF CLAIMS 27-34 UNDER 35 U.S.C. §101

The Office has rejected claims 27-34 for allegedly being directed to non-statutory subject matter. Specifically, the Office states that "the claimed invention must be within the technological arts." Applicants assert that the PTO Board of Appeals ruling in *In re Lundgren* abolished the technical arts test that the Office uses as justification for its rejection under 35 U.S.C. §101. Furthermore, the current USPTO Interim Guidelines on Patentable Subject matter expressly state, "The following tests are not to be applied by examiners in determining whether the claimed invention is patent eligible subject matter: (A) "not in the technological arts" test (B) Freeman-Walter-Abele test (C) mental step or human step tests (D) the machine implemented test (E) the *per se* data transformation test." Accordingly, Applicants request that the rejection be withdrawn.

B. REJECTION OF CLAIMS 1-14, 24-31, 34 AND 35 UNDER 35 U.S.C. §102(b)

With regard to the 35 U.S.C. §102(b) rejection over Eder, Applicants assert that Eder fails to teach each and every feature of the claimed invention. For example, with respect to independent claim 1, Applicants submit that Eder fails to teach or suggest, *inter alia*, "...a unit setting module configured to allow setting membership of a plurality of item units with related item units in at least one first group unit in the purchase order, each item unit in a first group unit having a type of volume that is the same," and similarly claimed in claim 27 as "...organizing an item available for purchase into an item unit with other items of a particular kind and at least one first group unit in the purchase order, the first group including a plurality of item units where the item units are related and have a type of volume that is the same," and in claim 35 as "...an

administration module configured to allow organization of each item into at least one group unit having a plurality of item types with related items in the purchase order, each item in a group unit having a type of volume that is the same." Instead, the passage of Eder cited by the Office teaches a price structure with different unit prices based on the number of units for an available item and a listing of other relevant information about the product, such as order costs and carrying costs. Col. 62, lines 12-40. However, the price structure and other relevant information of Eder only apply to a single product, and not to a plurality of products that are grouped together in a group unit.

In contrast, the claimed invention includes "...a unit setting module configured to allow setting membership of a plurality of item units with related item units in at least one first group unit in the purchase order." Claim 1. As such, a discount that is applied to the first group unit of the claimed invention does not merely involve a single product, but rather a plurality of item units with related item units. Thus, the price schedule and other relevant information for the single product of Eder do not teach the unit setting module and discounts based on the group unit as included in the claimed invention. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With still further respect to independent claim 1, Applicants submit that the cited references also fail to teach or suggest that, *inter alia*, "...the discount rule module is further configured to selectively assign a rank to each discount threshold of each first group unit, wherein the rank indicates a preference level of each discount threshold," and similarly claimed in claims 27 and 35. The portion of Eder cited by the Office describes making a determination if an increase in order quantity for a particular product would be beneficial. Col. 62, lines 4-5. To

this extent, Eder calculates the overall cost of a particular order amount, calculates the overall cost of an order amount that meets the higher levels on the price structure, and makes a determination as to which is least costly. Col. 62, lines 35-55. However, Eder never states that a ranking is assigned to the price structure levels themselves. Furthermore, Eder simply calculates costs associated with different quantities of a particular product and does not assign a ranking to each price structure level that indicates a preference level of the price structure level. Still further, the price structure levels of Eder relate to a particular product and not to a group of item units. In contrast, the claimed invention includes "...the discount rule module is further configured to selectively assign a rank to each discount threshold of each first group unit, wherin the rank indicates a preference level of each discount threshold." Claim 1. As such, the discount rule module of the claimed invention does not merely determine costs for different quantities of a particular item as does Eder, but rather, selectively assigns a rank to each discount threshold of each first group unit, wherin the rank indicates a preference level of each discount threshold. Thus, the determination of Eder does not teach the discount rule module of the claimed invention. Accordingly, Applicants request that the Office withdraw the rejection.

With regard to the Office's arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to the independent claims. In addition, Applicants submit that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these rejections individually, but reserve the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

C. REJECTION OF CLAIMS 15-23, 32 and 33 UNDER 35 U.S.C. §103(a)

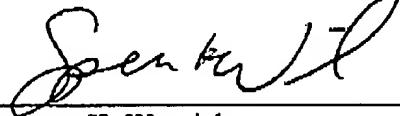
With regard to the 35 U.S.C. §103(a) rejection over Eder in view of Abdou, Applicants submit that each of the rejected claims is dependant upon at least one of the claims discussed above. Accordingly, Applicants herein incorporate the arguments presented above with respect to the claims from which the dependant claims depend. Furthermore, Applicants submit that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicants respectfully requests withdrawal of this rejection.

IV. CONCLUSION

In addition to the above arguments, Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,



Spencer K. Warnick
Reg. No.: 40,398

Date: December 15, 2005

Hoffman, Warnick & D'Alessandro LLC
75 State Street, 14th Floor
Albany, New York 12207
(518) 449-0044
(518) 449-0047 (fax)

SKW/hew